

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR
WATER QUALITY STANDARDS ADMENDMENTS**

AGENDA # III.B.1

AGENDA ITEM SUMMARY: The proposed rulemaking would amend rules to designate a portion of the Gallatin River as an Outstanding Resource Water (ORW).

LIST OF AFFECTED RULES: ARM 17.30.617 and 17.30.638.

AFFECTED PARTIES SUMMARY: The proposed designation of the Gallatin River from the Yellowstone National Park boundary to Spanish Creek as an ORW would prohibit new or increased point source discharges that would cause a permanent change of water quality. This includes individual and community waste water treatment systems or industrial sources that desire to discharge to the proposed ORW section of the Gallatin River or are determined to have a direct hydrologic connection to the Gallatin River.

SCOPE OF PROPOSED PROCEEDING: The Department requests that the Board issue a notice of supplemental rulemaking extending the comment period.

BACKGROUND: The Board received a petition from American Wildlands in December 2001 requesting the Board to initiate rulemaking to designate the mainstem Gallatin River from the Yellowstone National Park boundary to the confluence of Spanish Creek as an Outstanding Resource Water (ORW).

At the March, 2002, meeting the Board received comment on the petition and directed the Department to prepare an environmental impact statement (EIS) addressing the petition. The draft EIS was released for public comment in September, 2006. The comment period on the draft EIS closed on October 27, 2006. The final EIS was issued on January 9, 2007.

Notice of proposed rulemaking appeared in the October 5, 2006, Montana Administrative Register. The comment period on the proposed rulemaking closed on November 2, 2006.

The Board received a number of comments objecting to the ORW designation on grounds that it would render a number of properties in the Big Sky area undevelopable. Since the close of the comment period, the petitioners and several members of the development community have indicated to the Department that discussions are under way at the local level regarding local and other actions that could eliminate the potential that an ORW designation would render properties undevelopable. They have also indicated that they will request the Board to delay action on the rulemaking while they explore the feasibility of these options.

HEARING INFORMATION: The Board held a hearing on October 25, 2006.

BOARD OPTIONS:

The Board may:

1. Publish a supplemental notice extending the comment period.
2. Adopt the rule amendments as proposed or with modifications; or
3. Determine that it will not adopt the rule amendments, either affirmatively or by inaction..

DEQ RECOMMENDATION: The Department recommends that the Board extend the comment period.

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ENCLOSURES:

The following information is attached to this summary:

1. Notice of Public Hearing on Proposed Amendment
2. Notice of Extension of Comment Period on Proposed Amendment